

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS  
OF SAN BERNARDINO COUNTY, CALIFORNIA  
AND RECORD OF ACTION**

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**April 10, 2001**

**FROM: THOMAS R. LAURIN, DIRECTOR  
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT**

**SUBJECT: DISADVANTAGED BUSINESS ENTERPRISE PROGRAM**

**RECOMMENDATION:**

- 1) Adopt County Policy 15-02, as amended, and Standard Practice 15-02SP, as amended, Disadvantaged Business Enterprise Program for contracts involving federal aid transportation funds; and,
- 2) Establish annual goals for federal fiscal year 2000/2001, 14% Federal Highway Administration (FHWA) and 12% Federal Aviation Administration (FAA).

**BACKGROUND INFORMATION:** Local agencies desiring to receive funding for certain types of "federal-aid transportation projects" are required to adopt a program which encourages the participation of Disadvantaged Business Enterprises (DBEs). On September 1, 1998 the County approved Policies 11-19 and 11-19SP, DBE Program, as per federal regulations CFR 49 Part 23. On July 1, 2000 Policies 11-19 and 11-19SP were changed to County Policies 15-02 and 15-02SP.

The County of San Bernardino must now update its established Disadvantaged Business Enterprise (DBE) Program to conform with the new regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26, "Participation by Disadvantaged Business Enterprise" regulations in Department of Transportation Financial Assistance Programs. The County of San Bernardino receives federal financial assistance from the DOT, and as a condition of receiving this assistance, the County of San Bernardino has signed an assurance that it will comply with 49 CFR Part 26; Title VI of the Civil Rights Act of 1964; and section 30 of the Airport and Airway Development Act of 1970, as amended, and County Policy 15-02, as amended, and provide for establishment of the County's Standard Operating Procedures under these legislative mandates.

The new regulation mandates a specific method in computing annual goals; sets monitoring guidelines for projects and reporting criteria to state and federal agencies. Contract goals will now be established only on those DOT-assisted contracts that have subcontracting possibilities. Contract goals need not be established on every such contract, and size of contract goals will be adapted to the circumstances of each contract (e.g., type and location of work, availability of DBEs to perform the particular type of work). The contract work items will be compared with eligible DBE contractors willing to work on the project. A determination will also be made to decide which items are likely to be performed by the prime contractor and which ones are likely to

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be performed by the subcontractor(s). The goal will then be incorporated into the contract documents. Contract goals will be expressed as a percentage of the total dollar amount of DOT assisted contracts.

Bidders on federal-aid transportation projects must either meet these established participation goals for those projects or must satisfy a Good Faith Effort to ensure that maximum effort has been made to provide subcontractors an equal opportunity to compete for and participate in County federal-aid transportation construction contracts. Indicators of Good Faith efforts include the following:

- (1) attendance at pre-bid meetings;
- (2) allocation of work for subcontractors;
- (3) assistance requested from County Office of Small Business Development;
- (4) written notices to DBE subcontractors;
- (5) assistance requested from CalTrans;
- (6) providing plans and specifications to subcontractors;
- (7) negotiating with DBE subcontractors in good faith; and,
- (8) offering assistance to DBE subcontractors.

Points are allocated to each of the categories and a bidder must achieve eighty-five (85) out of one hundred (100) points to satisfactorily demonstrate a Good Faith Effort.

Adoption of the Policy and Standard Practice will allow the County to comply with the Civil Rights requirements for federal-aid transportation programs (Title VI of the Civil Rights Act of 1964; Section 30 of the Airport and Airway Development Act of 1970, as amended and Code of Federal Regulations (CFR 49.26) requirements).

REVIEW BY OTHERS: This item was reviewed by Deputy County Counsel Michelle D. Blakemore, Jerry Ivy of the Transportation Department, Eli Montoya from Architecture and Engineering and the County Administrative Office (Geoffrey Bogart, Administrative Analyst). The Policy and Standard Practice have been reviewed by the DBE Task Force which consists of contractors, contractor associations, minority and women business associations and chambers of commerce. In addition, the Standard Practice has also been coordinated with CalTrans and Federal Aviation Administration.

FINANCIAL IMPACT: None.

SUPERVISORIAL DISTRICT(S): All.

PRESENTER: W.B. Jefferson, Director, OSBD, 387-8277.